

AMENDED IN SENATE MARCH 26, 2003

SENATE BILL

No. 974

Introduced by Senator Alarcon

February 21, 2003

~~An act to add Section 15563 to the Government Code, relating to economic development. An act to add Chapter 2.3 (commencing with Section 2025) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Alarcon. ~~Secretary of Labor and Workforce Development: Self-Sufficiency Index~~ *Public contracts: preferences: socially responsible business.*

Existing law requires state agencies to give small businesses a 5% preference, and authorizes a local agency to provide for a small business preference, in contracts for construction, the procurement of goods, or the delivery of services.

Existing law also requires the state to award a 5% preference in contracts for goods to a California-based company that certifies under penalty of perjury that a certain amount of labor required to perform the contract is performed at a worksite or worksites located in a distressed area or within an enterprise zone.

This bill would require the state to award at least a 5% preference, and authorize a local agency to award a preference of at least 5%, but not more than 10%, to a California-based socially responsible business that certifies under penalty of perjury that it meets at least 10 of 13 criteria.

This bill would also make legislative declarations that promoting socially responsible businesses serves a public purpose, and that it is the

intent of the Legislature to promote those businesses that honor, respect, and safeguard human health and safety, worker dignity, environmental sustainability, and the community in which the businesses operate, by facilitating the participation of those businesses in all public contracts.

This bill would apply specified sanctions to a business that obtains a contract pursuant to a preference obtained by means of a false certification.

By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law establishes the Labor and Workforce Development Agency under the supervision of the Secretary of Labor and Workforce Development, and sets forth the duties of the secretary generally in this regard.~~

~~This bill would require the secretary to develop and annually produce a Self-Sufficiency Index, measuring the income needed for a family of a given size in various population areas of the state, to adequately meet its basic needs without public or private assistance. It would require the secretary to publish the index and report to the respective policy committees of the Legislature by January 1, 2005, and annually thereafter, on the elements of the index.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 15563 is added to the Government~~
- 2 ~~SECTION 1. Chapter 2.3 (commencing with Section 2025) is~~
- 3 ~~added to Part 1 of Division 2 of the Public Contract Code, to read:~~
- 4
- 5 ~~CHAPTER 2.3. SOCIALLY RESPONSIBLE BUSINESSES~~
- 6
- 7 ~~2025. (a) The Legislature hereby declares that it serves a~~
- 8 ~~public purpose, and is in the best interest of the state, to encourage~~
- 9 ~~business practices that honor, respect, and safeguard the~~

environment, human rights, public health and safety, the welfare of the communities of which the businesses are a part, and the dignity of the businesses' employees. The Legislature also declares that it serves a public purpose, and is in the best interest of the state, to promote the proliferation of businesses that engage in those socially responsible business practices.

(b) It is the intent of the Legislature to promote those businesses that honor, respect, and safeguard human health and safety, worker dignity, environmental sustainability, and the communities in which the businesses operate, by facilitating the participation of those socially responsible businesses in all public contracts.

2026. For purposes of this chapter, the following definitions apply:

(a) "Socially responsible business" means a business that has shown due respect for, and safeguards, the environment, human rights, public health and safety, the welfare of the community in which the business operates, and the dignity of its employees.

(b) "Local agency" has the same meaning as in Section 2000.

2027. (a) In order to facilitate the proliferation of socially responsible businesses, the Director of General Services and any other state official that enters into public contracts on behalf of an entity of state government shall provide for a socially responsible business preference in the award of all public contracts, as follows:

(1) In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to socially responsible businesses shall be at least 5 percent of the amount of the bid of the lowest responsible bidder meeting specifications.

(2) In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the preference to a socially responsible business shall be at least 5 percent of the highest responsible bidder's total score.

(3) The exact amount of preference afforded a socially responsible business under this subdivision shall be determined using the self-certification criteria set forth in Section 2028, in a manner as the Department of General Services shall prescribe in regulations that it shall develop and adopt pursuant to this section.

(b) (1) Notwithstanding any provision of law requiring a local agency to award contracts to the lowest responsible bidder meeting specifications, in order to facilitate the proliferation of

1 *socially responsible businesses, a local agency may provide for a*
2 *socially responsible business preference of not less than 5 percent,*
3 *but not higher than 10 percent, to a socially responsible business*
4 *in the award of all public contracts.*

5 *(2) The exact amount of preference afforded a socially*
6 *responsible business under this subdivision shall be determined*
7 *using the self-certification criteria set forth in Section 2028, in a*
8 *manner as each local agency shall prescribe.*

9 *(c) The preferences awarded under subdivisions (a) and (b)*
10 *may not be awarded to a noncompliant bidder.*

11 *2028. Each state or local awarding body shall award a*
12 *preference to a California-based socially responsible business that*
13 *certifies under penalty of perjury that it meets at least 10 of the*
14 *following 13 criteria:*

15 *(a) It pays a living wage to at least 75 percent of its employees.*

16 *(b) It provides health insurance to at least 75 percent of its*
17 *employees.*

18 *(c) It uses environmental best practices that are*
19 *environmentally sustainable and nonpolluting.*

20 *(d) It promotes recycling, either by using at least 75 percent*
21 *recycled materials in the business' operations or by recycling at*
22 *least 75 percent of its own nonusable materials.*

23 *(e) Its diversity and nondiscrimination policies and practices*
24 *are respectful of all people, regardless of gender, ethnicity, or*
25 *sexual orientation. The business shall have no violations of state*
26 *or federal diversity and antidiscrimination laws, and diversity in*
27 *the business' staff and leadership positions shall be easily*
28 *verifiable.*

29 *(f) It has not violated local, state, or federal laws, including*
30 *those designed to protect labor, human health and safety, and the*
31 *environment.*

32 *(g) It has a job retention program, and is able to demonstrate*
33 *an above average job retention level as compared to other*
34 *businesses within the same industry.*

35 *(h) It promotes or manufactures only products or services that*
36 *do not endanger human health or the environment.*

37 *(i) It contributes to the community through community service,*
38 *contributions, or other philanthropic activities.*

39 *(j) It encourages worker involvement or worker ownership in*
40 *the business by providing stock options to a majority of its*

1 *employees, providing for employee gain sharing, sharing financial*
2 *information with employees, or providing for employee*
3 *participation in management or decisionmaking.*

4 *(k) It provides retirement benefits to at least 75 percent of its*
5 *employees.*

6 *(l) It practices fair trade, if engaged in foreign trade.*

7 *(m) It provides employment training, education opportunities,*
8 *and apprenticeships for members of the community.*

9 2029. *(a) A business that requests and is given the preference*
10 *provided for in Section 2027 by reason of having furnished a false*
11 *certification, and that by reason of that certification has been*
12 *awarded a contract to which it would not otherwise have been*
13 *entitled, shall be subject to all of the following:*

14 *(1) Pay to the state any difference between the contract amount*
15 *and what the state's cost would have been if the contract had been*
16 *properly awarded.*

17 *(2) In addition to the amount specified in subdivision (a), be*
18 *assessed a penalty in an amount of not more than 10 percent of the*
19 *amount of the contract involved.*

20 *(3) Be ineligible to directly or indirectly transact any business*
21 *with the state for a period of not less than three months and not*
22 *more than 24 months.*

23 *(b) Prior to the imposition of any sanction under this chapter,*
24 *the contractor or vendor shall be entitled to a public hearing and*
25 *to five days' notice of the time and place of the hearing. The notice*
26 *shall state the reasons for the hearing.*

27 SEC. 2. *No reimbursement is required by this act pursuant to*
28 *Section 6 of Article XIII B of the California Constitution because*
29 *the only costs that may be incurred by a local agency or school*
30 *district will be incurred because this act creates a new crime or*
31 *infraction, eliminates a crime or infraction, or changes the penalty*
32 *for a crime or infraction, within the meaning of Section 17556 of*
33 *the Government Code, or changes the definition of a crime within*
34 *the meaning of Section 6 of Article XIII B of the California*
35 *Constitution.*

36 ~~Code, to read:~~

37 ~~15563. (a) The secretary shall develop and annually produce~~
38 ~~a Self-Sufficiency Index, measuring the income needed for a~~
39 ~~family of a given size in various population areas of the state, to~~

1 ~~adequately meet its basic needs without public or private~~
2 ~~assistance.~~

3 ~~(b) The secretary shall publish the index and report to the~~
4 ~~respective policy committees of the Legislature by January 1,~~
5 ~~2005, and annually thereafter, on the elements of the index.~~

6 ~~(c) The secretary shall implement this section using existing~~
7 ~~funds, grants, or federal funds.~~

